

## REMARKS

Reconsideration and withdrawal of all the rejections with respect to all of the claims currently pending in the application, i.e. claims 1-26, is respectfully requested in view of the following remarks.

Initially, Applicant has amended claims 3, 7-10 and 14 to eliminate some grammatical inconsistencies.

Applicant respectfully requests reconsideration of the rejection of claims 1-15 under §102(b) as being anticipated by Walker (US 2002/0042296) or under §103(a) as being obvious over Walker. Applicant respectfully submits that these rejections are based upon an incorrect interpretation of Walker.

Applicant's claim 1 is directed to a method of conducting a video poker game for a single player comprising the steps of allowing a player to make a wager, qualifying the player to receive an enhanced, time-dependent payout if the player obtains at least one pre-selected initiating winning hand, starting a timer, and providing an enhanced payout to the player if the player receives a hand of equal value to a pre-selected initiating winning hand during the pre-determined time period. The method of claim 1 does not require team play in order to receive an enhanced, time-dependent payout. To the contrary, claim 1 requires that the same player places the wager, qualifies for the enhanced, time-dependent payout, and is provided the enhanced payout if she receives a hand of equal value to the initiating hand.

Walker is entitled "Method and Apparatus For Team Play of Slot Machines." The sole purpose of Walker is to encourage and facilitate *team play*. Walker, however,

requires that there be more than one player in order for an enhanced payout to be made.

The Office Action misconstrued the disclosure of Walker and took the position that

“Walker implies that in stand-alone mode a single player can play the bonus”

and cited to Walker ¶¶ 55 and 64 in support thereof. While Walker discloses the ability of the slot machines to be played in stand-alone mode, there is no teaching or suggestion that a player playing in stand-alone mode is able to obtain the bonus. In fact, Walker specifically states the exact opposite. Walker discloses that bonus play is only available during team play, stating:

***“a player of video poker machine 40 is eligible to win a team play bonus when the machine is engaged in a team play session, and when pre-selected bonus conditions occur during a bonus time period.”*** (Walker ¶ 49) (emphasis added)

Moreover, Walker states:

“If the minimum requisite number of players as defined by the bonus conditions are available for team play, the players are informed that they have engaged in group play through the transmission and display of an appropriate team play message” (Walker ¶ 75)

***“It will be understood that, should enough players on a team terminate team play, the remaining number of team players may be insufficient to satisfy any team bonus conditions. Under such circumstances, the server will notify the remaining players that team play is not currently available and initiate the team formation process...”*** (Walker ¶ 81) (emphasis added)

Further support for the fact that the use of at least two slot machines is a pre-requisite for a bonus payout is found in paragraph 17 of Walker which states that Walker’s method comprises the steps of:

*“identifying at least two slot machines for team play, determining a set of bonus conditions for the team play including a bonus payout if the bonus conditions are satisfied by the team play, initiating a bonus time period during which the bonus conditions are active, and analyzing outcomes from the first and second slot machines to determine if the bonus conditions are met during the bonus time period.”* (Walker ¶ 17) (emphasis added)

While Walker discloses different combinations of payouts to players, such payouts are only in the context of *team play, not stand-alone play*. See Walker ¶ 64

*“a single player who obtains all the hands necessary to fulfill the bonus conditions receives a higher bonus payout than the other players...”*(emphasis added).

Moreover, one of ordinary skill in the art would not have been motivated to modify the gaming device of Walker, at the time of Applicant’s invention, such that the bonus is playable in stand-alone mode because the whole purpose of the Walker patent is to alleviate his perceived disadvantage of single play “slot machines [which] tend to be isolationist in nature.” (Walker ¶ 4). Walker is directed to a slot machine which is conducive to team play and player interaction. By modifying Walker’s device such that the bonus can be played by a single player would defeat the whole purpose of the Walker device since, according to Walker, “there is typically no sense of team play or social interaction associated with slot machines.” Applicant respectfully submits that upon a fair and accurate reading of Walker in its entirety, Applicant’s invention would not have been obvious to one of ordinary skill in the art at the time of invention.

Additionally, Walker does not meet the limitation of the last sub-paragraph of claim 1. Walker requires a plurality of such hands before providing an enhanced payout.

See ¶ 50 of Walker. This aspect of Walker precludes the step recited in Applicant's claim 4 wherein said discernible indicator stops when a hand of equal value is obtained by said player. There is no teaching or suggestion of Applicant's method of claim 4 in Walker.

Accordingly, Applicant's claimed invention is not anticipated nor obviated by the team play with multiple players as disclosed by Walker.

Turning now to the 103(a) rejection of claims 16-26 as being unpatentable over the proposed combination of Walker in view of Stupak, Applicant respectfully submits that the reference to Stupak does not cure the critical deficiencies of Walker discussed above. Stupak is inapposite to Applicant's claimed invention. Stupak does not suggest a first payout table and a player qualifying for a second (enhanced) payout table based upon random events which occur during play of a game. Stupak's teaching of offering a higher payout based upon an increased wager is common in the industry as many slot machines have a "BET MAX" button to make it easy of for a player to wager the maximum amount permitted. There is nothing random about the player hitting the "BET MAX" button. In Applicant's claimed methods, the player only qualifies for the claimed "enhanced, time-dependent, payout" upon the occurrence of at least one favorable, random event, e.g. a pre-selected initiating winning hand.

Moreover, the proposed combination of Walker and Stupak is improper because Walker is focused on team play, and Stupak's optional wagers/jackpots would make team play unmanageable. Therefore, all pending claims are now patentable over the art of record.

## CONCLUSION

Applicant respectfully submits that all pending claims as amended are now in condition for allowance. If the examiner has any questions or comments which might expedite the prosecution of the present application, he is respectfully requested to contact the Applicant's attorney on the phone number set forth below.

Respectfully submitted,

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